DETAILED ACTION

Response to Amendment

1. As a result of the amendment to claim 1, the rejection under 35 U.S.C. 112, 2nd paragraph has been withdrawn.

Claim Objections

1. Claim1 is objected to because of the following informalities: it is noted that the final line of the claim includes both a semi-colon and a period. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites the limitation "without applying additional cooking means." It is noted that applicants' specification only recites that "the bowl was sealed with a lead film in an aseptic space and left aside for approximately 12 minutes for further cooking." (see page 9, lines 14-15, for instance). Also, the other examples from pages 6-11 of applicants' specification recite similar terminology. The mere absence of a positive recitation is not basis for an exclusion. Nowhere does the specification recite that the "leaving aside" step occurs "without applying additional cooking means."

Any negative limitation or exclusionary proviso must have basis in the original disclosure. (See MPEP 2173.05(b)). That is, there is no positive recitation of applying additional cooking means and thus there is not support for excluding the step of "applying additional cooking means." As an example, the disclosure in the specification of "for further cooking" would not provide support for the negative limitation of "without applying additional cooking means" because "for further cooking" does not recite a positive step of applying additional cooking means. The step of "for further cooking" reads on allowing the heat inside the container to continue to cook the product but does not positively state that another "cooking means" has been applied to the product. Therefore, the limitation "without applying additional cooking means" is new matter.

The specification also does not indicate to what "cooking means" refers and as such the limitation "without additional cooking means" is not supported by the specification.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "without applying additional cooking means" but the specification does not provide any guidance as to what can be construed as "cooking means." This further appears contradictory since applicants' specification recites leaving aside for approximately 12 minutes for further cooking.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 1 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kageyama (US 5,834,049) in view of Ohta (US 4,892,747) and either of "Zojirushi

rice cooker" or "GoogleGroups - More Indian recipes" and in further view of Itakura et al. (JP05-316972).

Kageyama discloses a method for preparing rice in aseptic packaging comprising the steps of rinsing raw rice and immersing the rice in water (col. 3, line 65). The rice is put in a heat resistant plastic bowl (col. 3, lines 49-63) and sterilized at 140℃ 6-10 times for 5 seconds (col. 4, lines 14-44). Since the container is being sterilized it would have been obvious that the sterilization step would have resulted in the placing of the heat resistant plastic container in an aseptic space. The sterilization time used by Kageyama is in such close proportion to the claimed 4.5 seconds, that one having ordinary skill in the art at the time of the invention would expect the conditions to impart the same properties. It is then disclosed to add cooking water to the bowl in an aseptic space and cook the rice in the desired manner, followed by sealing and wrapping the bowl (col. 5, lines 10-40).

Kageyama discloses cooking rice in a known manner by adding water into the container (col. 5, lines 19-20) but claim 1 differs in the particular method by which the rice has been cooked in the sterilized package. Claim 1 specifically recites and thus differs from Kageyama in adding 30-70% of cooking water into the bowl, cooking the rice, adding the residual amount of the cooking water into the bowl, leaving aside the bowl for 12 minutes and then cooling the bowl in a 10℃ water bath for 15 minutes.

However, Ohta discloses a method of cooking rice gruel where 2.5 kg of rice is cooked in 4 liters of water to produce boiled rice, and following the first cooking; 5 liters of water was added and the product was further heated for 20 minutes (see column 5,

lines 13-18 and column 26-31). This equates to a first water addition step, cooking the rice and adding the remaining amount of water where the first addition would have been 42% of the total amount of cooking water (9.5 liters) and thus the remaining water would have been about 58%. Since Kageyama teaches that the sterilized rice can be cooked in any manner and since Ohta teaches a first addition of water and a subsequent second addition of water for the purpose of making rice gruel, to thus modify Kageyama and employ the rice cooking steps as taught by Ohta would thus have been obvious to one having ordinary skill in the art for the purpose of preparing a rice gruel.

Regarding the limitation "leaving aside the bowl for 12 minutes" it is noted that the term "leaving aside" is broad and thus reads on, for instance, one of the cooks leaving the bowl aside, so that another cook can tend to the bowl. Nevertheless, Ohta does not specifically recite "sealing and wrapping the bowl; and leaving aside the sealed bowl for 12 minutes without applying additional cooking means."

It is noted however, that "Zojirushi rice cooker" teaches that it has been known and conventional to leave rice that has been cooked into porridge (i.e. rice gruel) within the cooker and to allow it to sit for about 10 minutes for the purpose of achieving a requisite consistency (see page 2 of 2, "I've cooked 1 dry cup… ; "After the cooking is done on the Porridge setting, I stir up the porridge and let it sit for about 10 minutes…"). This has been further taught by "GoogleGroups - More Indian recipes," which teaches a process for producing congee (i.e. rice gruel) where after the cooking of the rice in water, the gruel is still sealed and "left aside" (i.e. off the range) for about 30 minutes, for the purpose of making the gruel "gooey." (see page 8 of 9 - "Kishore Krshna").

Since Kageyama already teaches that after achieving the requisite rice product, the container is sealed and subsequently cooled (column 5, lines 37-40), to thus allow the rice gruel taught by Ohta to be "left aside" after it has been cooked, while in a sealed container would have been obvious to one having ordinary skill in the art, since the art teaches that allowing rice gruel type foods to sit without heat allows for a particular degree of thickening to be achieved. The art even teaches leaving the container with the gruel aside for 10 minutes. Although not 12 minutes, it is noted that the specific time for the container being "left aside without additional cooking means" would also have been a function of the particular quantity of gruel that was being produced and the particular consistency (or degree of thickening desired) and therefore would have been routinely determined through experimentation. Furthermore, it would have been within the routine skill of one having ordinary skill in the art to employ the process of Ohta for the packaged rice product of Kageyama, especially since Kageyama teaches that after the sterilization that the rice can be cooked in a known manner by adding hot or cold water. Obviously, Ohta teaches the claimed water addition steps have been known for the purpose of producing rice gruel, and "Zojirushi rice cooker" teaches that the step of leaving the gruel aside for 10 minutes has been known for allowing the gruel to thicken. "GoogleGroups - More Indian recipes," teaches leaving gruel aside in a sealed state for allowing it to further thicken. Therefore, to modify Kageyama and employ the cooking and "leaving aside" steps as taught by Ohta and "Zojirushi rice cooker" or "GoogleGroups - More Indian recipes," would thus have been obvious to one having ordinary skill in the art, for the purpose of pre-packaging rice gruel and allowing it to

achieve a requisite thickened consistency. It is further noted that since Ohta teaches that once the gruel has been produced it can be placed into sealed containers, that it would also have been obvious to have performed the leaving aside step after sealing for the same purpose as taught by "Zojirushi…" and "GoogleGroups…" for thickening the gruel in a sealed container.

Regarding the recited step of cooling the bowl in 10℃ water for 15 minutes, it is noted that Kageyama already teaches cooling a packaged sealed product (column 5, lines 38-39), but does not recite the particular parameters as recited in claim 1.

It is noted, however, that Itakura et al. teaches retaining a particular degree of firmness and mouthfeel by cooling using 10℃ water for 5 minutes for the purpose of preventing excessive gelatinization of the rice gruel (see paragraphs 0018-0019 and paragraph 0021-0023 of the machine translation). Although Itakura et al. teaches cooling to 30℃ within 5 minutes, if a larger portion of rice was to be cooled to 30℃, or if it was desired to cool to a temperature below 30℃, it would have been obvious to one having ordinary skill in the art to extend the cooling time in the 10℃ water. Itakura is similar to Kageyama since Itakura et al. is also cooling a packaged rice product. Itakura et al. is also similar to Ohta since Itakura et al. is packaging a rice porridge (i.e. gruel), as is Ohta. Therefore, to modify the combination and cool the rice using 10℃ water for 15 minutes would thus have been an obvious result effective variable, routinely determined through experimentation for the purpose of lowering the temperature of the cooked rice, stopping excessive gelatinization of the rice porridge.

Response to Arguments

9. On page 4 of the response, applicants urge that Kageyama does not teach or suggest the steps of adding 30-70% of total cooking water into the bowl in an aseptic space; cooking the rice; adding the residual amount of the total cooking water into the bowl; sealing and wrapping the bowl; leaving aside the sealed bowl for 12 minutes without applying additional cooking and then cooling the bowl in a 10℃ water bath for 15 minutes. Applicants further urge that example 2 of the present application discloses that the amount of cooking water used before and after the cooking process can be used to control the point of the mass production of rice gruel.

It is noted however, that Kageyama has not been relied on to teach the percentage of water in the gruel producing steps. It is noted that Kageyama teaches the recited rinsing, immersing and putting rice in a plastic tray for sterilization at 140℃ for between 6-10 times for the purpose of sterilizing the rice. After the sterilization, Kageyama clearly teaches the inclusion of water into the package for cooking rice in a known manner, and subsequently sealing and cooling the package to produce a packaged rice product. Ohta has been relied on to teach that a known manner of cooking rice where first add 42% water (4 liters / 9.5 liters total) and subsequently add the remaining 5.5 liters (58%) after the first cooking step. It is noted that the claim does not limit heating after the addition of the remaining water. The claim recites “leaving aside the sealed bowl for 12 minutes without applying additional cooking means.” It is noted however, that the GoogleGroups references clearly teach that it has been known

and conventional to allow a rice gruel product to "rest" without the application of additional cooking, for the purpose of allowing the gruel to thicken and reach a particular consistency. It is noted that the GoogleGroups references even teach that this can occur within the same container as that with which the gruel has been prepared, and that the container can be sealed. Kageyama also teaches sealing after producing the rice product. To thus allow the sealed product to thicken without any additional cooking means applied thereto would thus have been obvious to one having ordinary skill in the art, for the purpose of achieving the requisite consistency and thickness of the gruel.

10. Regarding Ohta, applicants assert that Ohta discloses a first cooking step and a second cooking step for cooking rice, but heat for an additional 20 minute and then filter off the remaining water.

It is noted that Ohta does not disclose filtering off the remaining water, since column 5, lines 17 states the upper layer was removed by filtration. This does not teach removing the water from the product. In any case, it is noted that column 5, lines 26-31 has been relied on to teach a rice gruel product employing the addition of a first percentage of cooking water that falls within the claimed range, and subsequently adding the remaining amount of cooking water. Ohta teaches that the water addition steps have been known and conventional for producing a rice gruel product. Although Ohta then transfers the product to smaller packages, it is noted that Kageyama clearly teaches that the cooking and sealing of the product occur within the same package. Therefore, one having ordinary skill in the art would have been modifying Kageyama,

who generically teaches the addition of water to cook rice, with a conventional water addition and cooking process for producing rice gruel, as taught by Ohta with Zojirushi or the GoogleGroups references.

11. Regarding Itakura et al., applicants present similar arguments as those presented with respect to Kageyama.

It is noted however, that Itakura et al. teaches that there is an advantage to employing cooling by using 10℃ water to cool a sealed package of rice gruel - to stop gelatinization of the gruel. Therefore, to modify the combination, which already teaches cooling a sealed cooked rice product, as taught by Kageyama and to employ the cooling process as taught by Itakura et al. would have been obvious to one having ordinary skill in the art, for the purpose of stopping gelatinization of the gruel product. It is further noted that it would have been a conventional step to allow the cooked gruel to further thicken and after achieving a requisite thickened state to subsequently cool the gruel so as to prevent the heat within the container (which would have aided in the thickening) to continue to act on the gruel.

12. Further on page 5, applicants assert that the present invention does not require a heating operation after a second addition of water but, this is not commensurate in scope with the claims. Although the claims recite “without applying additional cooking means” this limitation has only been directed to the step of “leaving aside the sealed bowl for 12 minutes.” The claim does not exclude other steps occurring between the

"sealing and wrapping of the bowl" and the "leaving aside…" step, as well as between the "leaving aside…" step and the cooling step. Nevertheless, in view of the combination applied above, it would have been within the skill of one having ordinary skill in the art to "leave aside" a sealed rice gruel package because Kageyama already teaches a sealed cooked rice package, Ohta teaches that the cooked rice can be rice gruel, and since the GoogleGroups references teach that allowing a rice gruel product to be "left aside" for 10 minutes and 30 minutes, while being covered allows for the gruel to achieve a particular consistency and thickness. It is further noted that the art also teaches that if the consistency of rice gruel is too thick after a first cooing step, to add additional water.

13. Additionally, it is noted that the claims do not specify the particular quantity of water compared to the quantity of rice. Therefore, the initial addition of 30% of the total cooking water which would have left 70% water remaining could have resulted in two different types of products depending on the total water amount compared to the rice. That is, adding 70% water after the cooking step could result in a product that would have been almost like a soup broth compared to if the residual water was only 30% of the total water. Nevertheless, "Zojirushi rice cooker" teaches adding additional water for achieving a requisite consistency(page 2 of 2 - "It usually thickens up a lot while sitting and you may need to add boiling water to get the consistency down to where you want it."). Therefore, it would have been obvious to have allowed the closed container to be left aside for achieving a particular consistency to the rice gruel.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. “GoogleGroups - Collection: Indian Vegetarian recipes also teaches on page 2 of 15 discloses that congee (i.e. rice gruel) when allowed to sit thickens (see “Congee may be made ahead of time and reheated…”).

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VIREN THAKUR whose telephone number is (571)272-6694. The examiner can normally be reached on Monday through Friday from 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Rena Dye can be reached on (571)-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VIREN THAKUR/

Primary Examiner, Art Unit 1782